

Application No. 09/775,005  
Response to Office Action

Customer No. 01933

### R E M A R K S

Reconsideration of this application, as amended, is respectfully requested.

### ALLOWABLE SUBJECT MATTER

The Examiner's indication of the allowability of the subject matter of claims 5, 8, 9, 26, 28, 29, 35 and 36 is respectfully acknowledged.

Each of allowable claims 5, 8, 9, 26, 28, 29, 35 and 36 has been amended so as to be rewritten in independent form to include all of the subject matter of its parent claim and any intervening claims. No new matter has been added, and no new issues with respect to patentability have been raised.

Accordingly, it is respectfully submitted that amended independent claims 5, 8, 9, 26, 28, 29, 35 and 36 are now all in condition for immediate allowance.

### THE REJECTED CLAIMS

Claim 2 has been amended to clarify the feature of the present invention whereby the image pickup element driving section has a high speed reading mode for driving the image pickup element to produce an image signal by binning or thinning reading, and a low speed reading mode for driving the image pickup element to produce an image signal with a greater number

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of pixels than the image signal produced in the high speed reading mode, as supported by the disclosure in the specification at page 12, lines 6-20..

In addition, claim 3 has been amended to clarify the features of the present invention whereby the image pickup element driving section has a binning function for driving the image pickup element to pick up the observation image in units of an image pickup unit comprising a plurality of adjacent pixels, and whereby the controlling section sets a binning number, which indicates a size of the image pickup unit, of the image pickup element driving section based on an objective lens type outputted from the microscope controlling section, as supported by the disclosure in the specification at page 11, line 21 to page 12, line 5.

Still further, claim 23 has been amended to be rewritten in independent form based on the subject matter of its (now canceled) parent claim 14, as well as to clarify the features of the present invention whereby the controlling section comprises a memory in which at least one color matrix corresponding to a lighting light color temperature is stored, calculates the lighting light color temperature from types and a number of filters inserted in a light path and a lighting light voltage which are output from said microscope controlling section, compares the calculated lighting light color temperature with a

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content of said memory, and sets the color matrix in accordance with the lighting light color temperature to said image adjusting section, as supported by the disclosure in the specification at page 41, line 4 to page 44, line 3.

And new claims 40 and 41 have been added depending from claims 2 and 3, respectively, to recite the features of the present invention described in the specification at page 12, line 21 to page 13, line 18 and at page 24, line 10 to page 28, line 8, whereby: a preprocessor converts the image signal from the image pickup element into digital image data; a frame memory stores the digital image data which has been converted in the preprocessor; and an AE calculator carries out automatic exposure control based on the image data stored in the frame memory; wherein the AE calculator stops exposure time control while conversion information of a light path of the microscope outputted from the microscope controlling section is detected.

No new matter has been added, and it is respectfully requested that the amendments to claims 2, 3 and 23 and the addition of claims 40 and 41 be approved and entered.

It is respectfully submitted, moreover, that USP 5,933,513 ("Yoneyama et al") does not disclose, teach or suggest the above described features of the present invention as recited in amended independent claims 2 and 3, and it is respectfully submitted that the combination of Yoneyama et al and USP 5,833,617 ("Hayashi")

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does not disclose, teach or render obvious the above described features of the present invention as recited in amended independent claim 23.

Accordingly, it is respectfully submitted that amended independent claims 2, 3 and 23, as well as claims 4, 6, 7, 11-13, 33, 34 and 37-41 respectively depending therefrom, all patentably distinguish over Yoneyama et al, taken singly or in combination with Hayashi or any of the other cited references, under 35 USC 102 as well as under 35 USC 103.

#### CLAIM FEE

The amendment previously contained 33 claims, of which 6 were independent, and the appropriate claim fee was paid for such claims. The application now contains 24 claims, of which 11 are independent. Accordingly, a claim fee in the amount of \$440.00 for the addition of 5 extra independent claims is attached hereto. In addition, authorization is hereby given to charge any additional fees which may be determined to be required to Account No. 06-1378.

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In view of the foregoing, entry of this Amendment, allowance of the claims and the passing of this application to issue are respectfully solicited.

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If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,



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